



Ethics & Elections Committee

**Wednesday, March 29, 2006
3:00 PM – 4:00 PM
306 HOB**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

(AMENDED 3/27/2006 4:04:41PM)

Amended(1)

Ethics & Elections Committee

Start Date and Time: Wednesday, March 29, 2006 03:00 pm

End Date and Time: Wednesday, March 29, 2006 04:00 pm

Location: 306 HOB

Duration: 1.00 hrs

Consideration of the following bill(s):

HB 133 Student Voter Education by Anderson

HB 1037 Campaign Financing by Rivera

Consideration of the following proposed committee bill(s):

PCB ETEL 06-01 -- Campaign Finance

NOTICE FINALIZED on 03/27/2006 16:04 by Morgan.Alyssa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 133
SPONSOR(S): Anderson
TIED BILLS:

Student Voter Education

IDEN./SIM. BILLS: SB 110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee		Mitchell ⁽³⁾	Mitchell ⁽³⁾
2) Education Appropriations Committee			
3) State Administration Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 133 requires district school boards and county supervisors of elections to cooperate in conducting voter education for high school students in grade 12. The education is voluntary for public and private high school students. The supervisors of elections shall conduct the program for public schools, and only if requested for private schools.

Division of Elections Rule 1S-2.033, F.A.C., currently requires each supervisor of elections to conduct a voter registration/education program at least once a year in each public high school and college campus in the county. The bill would codify the voter education requirement in statute, requiring that two programs be held during the school year and that specific information be included in the program.

Representative Bullard filed a similar bill, HB 671, during the 2005 session, but withdrew the bill prior to introduction.

If enacted, HB 133 is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – HB 133 requires that the local supervisor of elections provide voter education to public high school students once during each term of the school year. In addition, a supervisor of elections must provide voter education to a private school, if requested to do so.

Promote personal responsibility – The bill seeks to encourage high school seniors to register to vote and become active in state and local elections.

B. EFFECT OF PROPOSED CHANGES:

Florida legislation implemented the National Voter Registration Act of 1993, called the “*Motor Voter*” law, because it allows people to register to vote at the same time they apply for a driver’s license. The Motor Voter law was targeted at increasing voter turnout by increasing voter registration, premised upon the belief that simplifying and expanding opportunities for voter registration would translate into greater turnout at the polls.

Indeed, since the passage of the Florida Voter’s Registration Act in 1994, registration numbers have experienced a robust increase. As of January 2006, there were 11,391,734 registered voters in Florida.¹ To date, the *Motor Voter* law has succeeded in increasing the number of registered voters, but has not affected voter turnout.

A person must be 18 years of age to register to vote in Florida, but pre-registration is allowed at age 17. s. 97.041, F.S. A person who is otherwise qualified may pre-register on or after that person’s 17th birthday and may vote in any election occurring on or after his or her 18th birthday. s. 97.041(1)(b), F.S.

The Secretary of State is responsible for providing technical assistance to the supervisors of elections on voter education and for providing voter education assistance to the public. As a part of its election reform package, the 2001 Legislature made revisions to the voter education provisions in the Florida Election Code (ch. 2001-40, Laws of Fla., effective January 1, 2002). Current law requires the adoption of administrative rules by the Secretary that prescribe minimum standards for nonpartisan voter education. The standards must include the following subjects:

- Voter registration;
- Balloting procedures, absentee and polling place;
- Voter rights and responsibilities;
- Distribution of sample ballots; and
- Public service announcements.

¹ *Voter Registration Report*, January 2006, Florida Department of State.

County supervisors are charged with the responsibility for implementing the minimum voter education standards and conducting additional nonpartisan education efforts to ensure that voters have a working knowledge of the voting process. Division of Elections Rule 1S-2.033, F.A.C., provides general standards for nonpartisan voter education. Subsections (3) and (4) of the rule require each supervisor of elections to conduct a voter registration/education program at least once a year in each public high school and college campus in the county.

HB 133 would codify the rule requirement in statute for public *and* nonpublic high school students in grade 12, and require that the following subjects be addressed in the program:

- How to register and pre-register to vote;
- The operation of voting machines;
- How, when and where to vote; and
- The importance of voting.

Supervisors of elections would be required to conduct the presentation for eligible public high school students, and if requested to do so, for nonpublic high school students. The presentations would further be conducted during school hours and once per term of the school year

Finally, the bill requires that a program provide students with sufficient opportunity, information and time to complete a voter registration application for submission to the supervisor of elections. Again, a person who is otherwise qualified may pre-register on or after that person's 17th birthday and may vote in any election occurring on or after his or her 18th birthday. s. 97.041(1)(b), F.S.

The provisions of HB 133 are effective on July 1, 2006.

C. SECTION DIRECTORY:

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

None. Supervisors of elections are already required to provide voter registration/education to high school students once per year, pursuant to Division rule. There should be only nominal, additional expenditures required, if the bill is enacted.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

N.A.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 133

2006

A bill to be entitled

An act relating to student voter education; encouraging district school boards and county supervisors of elections jointly to provide a program of voter education for high school seniors; providing guidelines for the content of the educational program; requiring that the program of voter education be conducted during school hours; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) Each district school board and county supervisor of elections shall cooperate to provide voter education to high school students who are in grade 12. The voter education shall be in the form of a presentation and is voluntary for public high schools and nonpublic high schools. Each supervisor of elections shall conduct the presentation for the public high schools and, upon request, for the nonpublic high schools.

(2) The voter education must include information concerning:

- (a) How to register and preregister to vote.
- (b) The operation of voting machines.
- (c) How, when, and where to vote.
- (d) The importance of voting.

(3) The voter education program must provide students with the opportunity, sufficient information, and sufficient time to complete and hand in to the supervisor of elections applications

HB 133

2006

29 for voter registration.

30 (4) The voter education program shall be conducted during
31 school hours each term of the school year in order to reach a
32 maximum number of students in the most effective and efficient
33 manner.

34 (5) A student may not be excluded from the voter education
35 program due to an irregular class schedule, and students
36 enrolled in a magnet school must be provided voter education.

37 Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 133

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Ethics & Elections Committee
Representative(s) Anderson offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. (1) Each district school board and county supervisor of elections may cooperate to provide voter education to high school students who are in grade 12. The voter education may be in the form of a presentation and is voluntary for public high schools and nonpublic high schools. Each supervisor of elections may conduct the presentation for the public high schools and, upon request, for the nonpublic high schools.

(2) If provided, the voter education must include information concerning:

(a) How to register and preregister to vote.

(b) The operation of voting machines.

(c) How, when, and where to vote.

(d) The importance of voting.

(3) If provided, the voter education program must provide students with the opportunity, sufficient information, and sufficient time to complete and hand in to the supervisor of elections applications for voter registration.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

(4) If provided, the voter education program shall be conducted during school hours each term of the school year in order to reach a maximum number of students in the most effective and efficient manner.

(5) If voter education is provided, a student may not be excluded from the voter education program due to an irregular class schedule, and students enrolled in a magnet school must be provided the same opportunity for voter education.

Section 2. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

A bill to be entitled

An act relating to student voter education; encouraging district school boards and county supervisors of elections jointly to provide a program of voter education for high school seniors; providing guidelines for the content of the educational program; requiring that the program of voter education be conducted during school hours; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1037
SPONSOR(S): Rivera and others
TIED BILLS:

Campaign Financing

IDEN./SIM. BILLS: SB 2156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee		Shaffer <i>CS</i>	Mitchell <i>BN</i>
2) Transportation & Economic Development Appropriations Committee			
3) State Administration Council			
4)			
5)			

SUMMARY ANALYSIS

HB 1037 allows candidates for the House of Representatives to transfer or retain a maximum per election of \$50,000 in a campaign account for the same office to which the candidate was elected by virtue of being unopposed.

HB 1037 allows candidates for the Senate to transfer or retain a maximum per election of \$150,000 in a campaign account for the same office to which the candidate was elected by virtue of being unopposed.

HB 1037 is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

HB 1037 does not appear to implicate any House principle.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 106.141, F.S., currently provides for disposition of surplus campaign funds by candidates. Any candidate required to dispose of surplus funds may dispose of them in a variety of ways:

- Return pro rata to each contributor the funds that have not been spent or obligated;
- Donate to a charitable organization or organizations that meet the qualifications of s. 501(c) (3) of the Internal Revenue Code the funds that have not been spent or obligated;
- Give a portion of the funds that have not been spent or obligated to their political party, candidates for the House may give up to \$10,000 and candidates for the Senate may give up to \$30,000;
- Give the funds in the case of a candidate for state office, to general revenue; or
- Give the funds in the case of a candidate for an office of a political subdivision, to such political subdivision.

An "unopposed candidate" is defined as a "candidate for nomination or election to an office who, after the last day on which any person, including a write-in candidate, may qualify, is without opposition in the election at which the office is to be filled or who is without such opposition after such date as a result of any primary election or of withdrawal by other candidates seeking the same office." s. 106.011(15), F.S.

An unopposed candidate may transfer a prescribed amount of funds to an office account. A House candidate may transfer up to \$10,000; and a Senate candidate \$20,000. (s.106.141(5)(c), F.S., provides for funding an office account up to \$5,000 multiplied by the number of years in the term of office for which elected.)

If any funds have been received from general revenue as a participant in the matching funds program they must be returned.

Federal candidates have few limitations concerning the transfer of surplus funds. Funds and assets may be transferred without limit between a candidate's principal campaign committee and the candidate's other authorized committees for the **same office** during the **same election**. Note, however, that an authorized committee may not transfer funds to another authorized committee of the same candidate if the transferring committee has net debts outstanding.¹

Funds and assets may be transferred without limit between committees authorized by a candidate for the **same office** in **different elections** as long as the transferring committee does not have debts outstanding. Note that, for the purposes of the contribution limits, if the transferred contributions were originally made:

- After the previous election was held: or

¹ <http://www.fec.gov/pages/candguide2004/chapt10.htm>

- After the candidate withdrew or otherwise ceased to be a candidate in the previous election, contributions transferred from the previous campaign to the current campaign must be aggregated with contributions by the same donors to the current campaign.²

Effects of Proposed Changes

HB 1037 allows candidates for the House of Representatives to transfer or retain a maximum per election of \$50,000 in a campaign account for the same office to which the candidate was elected by virtue of being unopposed.

HB 1037 allows candidates for the Senate to transfer or retain a maximum per election of \$150,000 in a campaign account for the same office to which the candidate was elected by virtue of being unopposed.

Candidates will continue to be able to exercise other options for disposing of surplus funds prescribed in s. 106.141(4), F.S. HB 1037, simply, will provide another option for disposal for unopposed candidates.

Candidates cannot however, transfer or retain more than the amounts provided therein (\$50,000; \$150,000) from one election year to another. For example, an unopposed House candidate in 2006 could retain up to \$50,000, but if running unopposed again in 2008 could not transfer or retain another \$50,000 for a total of \$100,000.

The following table shows the number of unopposed candidates for the three previous election cycles.

Election Year	House candidates elected without opposition
2000	14
2002	18
2004	52

C. SECTION DIRECTORY:

Section 1 amends s. 106.141, F.S., to allow unopposed candidates for the House of Representatives or the Senate to transfer the funds or to retain the funds in a campaign account for the same office to which the candidate was elected by virtue of being unopposed with a maximum per election of \$50,000 for a candidate for the House of Representatives and \$150,000 for a candidate for the Senate.

Section 2 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

HB 1037 may have a fiscal impact on charitable and other organizations. The current law, s. 106.141, F.S., requires candidates to dispose of funds in several specified ways, including donating the funds that have not been spent or obligated to a charitable organization or to the candidate's political party, or returning the contributions pro rata to contributors or by giving them to the General Revenue Fund. These entities, which may have otherwise received funds, may not receive them from legislative candidates if the bill is enacted.

D. FISCAL COMMENTS:

HB 1037 will have no significant fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

HB 1037 does not grant any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 1037

2006

A bill to be entitled

An act relating to campaign financing; amending s. 106.141, F.S.; allowing unopposed legislative candidates to transfer surplus campaign funds to or retain such funds in a campaign account for reelection to the same office; establishing limits on the transferable amount of such funds; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (4) of section 106.141, Florida Statutes, is amended to read:

106.141 Disposition of surplus funds by candidates.--

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.

2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.

3. Give not more than \$10,000 of the funds that have not been spent or obligated to the political party of which such candidate is a member, except that a candidate for the ~~Florida~~ Senate may give not more than \$30,000 of such funds to the political party of which the candidate is a member.

4. Give the funds that have not been spent or obligated:

HB 1037

2006

29 a. In the case of a candidate for state office, to the
30 state, to be deposited in either the Election Campaign Financing
31 Trust Fund or the General Revenue Fund, as designated by the
32 candidate; or



33 b. In the case of a candidate for an office of a political
34 subdivision, to such political subdivision, to be deposited in
35 the general fund thereof.

36 5. With respect to an unopposed candidate for the House of
37 Representatives or the Senate, transfer the funds to or retain
38 the funds in a campaign account for the same office to which the
39 candidate was elected by virtue of being unopposed, with a
40 maximum per election of \$50,000 for a candidate for the House of
41 Representatives and \$150,000 for a candidate for the Senate.

42 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ETEL 06-01 Campaign Finance
SPONSOR(S): Ethics & Elections Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Ethics & Elections Committee		Mitchell 	Mitchell 
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The proposed committee bill (PCB) makes a number of changes with regard to disclosure for certain entities that produce electioneering communications (EC) under ch. 106, F.S. The PCB:

- Requires organizations that make expenditures for EC's (ECO's) to register and initially report, *within 48 hours*, their contributions and expenditures since the last general election. Reporting will be done with the Division of Elections.
- Requires ECO's to "disaggregate" contributions they have received from section 527 organizations, and list those made *to such section 527 organizations* that exceed \$10,000.
- Codifies and expands the disclosure and reporting requirements of House Rule 15.3 in a new section of ch. 106, F.S., and requires registration with the Division of Elections.

The effective date of the PCB is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility – The PCB will require certain groups that run last minute electioneering communications to report their contributions and expenditures in a timelier manner, thereby allowing the public to know more about the source of their funding. The PCB also requires legislators, statewide officeholders and candidates for such offices to report activity made on behalf of political committees, committees of continuous existence, and 527 organizations. The reporting will be done with the Division of Elections on its electronic filing system.

B. EFFECT OF PROPOSED CHANGES:

Current Situation –

Section 527 Organizations

Since 2004, electioneering communications in Florida have been conducted primarily by groups known as "527 political organizations." A political organization (PO) is a creature of federal tax law, organized under section 527 of the Internal Revenue Code (Code), and defined as a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an "exempt function." An "exempt function" of a "political organization" is defined as "influencing or attempting to influence the selection, nomination, election or appointment of an individual to a federal, state, or local public office or office in a political organization. . . ." ¹

PO's that accept contributions and make expenditures for the purpose of influencing "the election, nomination, or the appointment of any individual to Federal, State, or local public office" must file certain forms with the IRS as a condition of tax-exempt status.² Those forms are set out under "Federal Reporting Requirements for Section 527 Organizations" below.

As a second condition of tax-exempt status, persons making contributions that aggregate \$200 or more, and persons receiving \$500 or more, per calendar year must be disclosed on Form 8872. Otherwise, the PO is subject to tax on the contributions and expenditures not disclosed at a rate of 35% (the highest corporate tax rate). If a PO does not wish to be tax-exempt, and does not file Form 8871, it is not required to file Form 8872 disclosing its contributors and recipients.

Section 527 of the Code has actually been around for over 30 years. It was added to the Code in 1974 to provide an exemption from federal income tax and gift tax to "political organizations." The rationale for creating section 527 was that campaigns, party committees and political action committees should not pay taxes on funds contributed to such entities and used for political purposes.³

¹ 26 U.S.C. 527(e)(2).

² A PO that expects to receive \$25,000 or more in gross receipts in any taxable year must file an initial report with the IRS, notifying the agency of its tax-exempt status.

³ http://www.brook.edu/gs/cf/headlines/527_intro.htm

Beginning in 1996 the IRS, in several private letter rulings, said that groups seeking to influence elections through candidate-specific issue advertising would qualify as political organizations, regardless of whether they were registered with the FEC or state election agencies.⁴

Federal Reporting Requirements for Section 527 Organizations

Section 527 organizations are generally required to file one or more of the following with the IRS:

- An initial notice (Form 8871)
- Periodic reports on contributions and expenditures (Form 8872)
- Annual income tax returns
- Annual information returns

State and local candidate campaigns as well as state and local committees of political parties are political organizations that are not required to file the initial notice. In addition, changes made in 2002 to the federal law exempt "qualified state or local political organizations" (QSLPO's) from Form 8872 reporting, if they are subject to state laws that already require the reporting of contributions and expenditures that they would otherwise have to report on Form 8872. Political committees organized under s. 106.03, F.S., and committees of continuous existence organized under s. 106.04, F.S., are entities that do not have to report contributions and expenditures to the IRS using Form 8872.

EC's in Florida

In 2004, the Florida Legislature passed campaign finance legislation designed to regulate "issue advocacy," advertisements that do not contain any express advocacy such as "vote for" "elect" or "vote against" when referring to a particular candidate or ballot issue.⁵

Florida law now regulates what are known as "EC's" --- paid issue advocacy advertisements affecting candidates or ballot issues that are run close to an election (after the end of the qualifying period) and, for candidate ads, are targeted to 1,000 or more persons in the district the candidate seeks to represent. s. 106.011(18), F.S. There is a regulatory scheme with the Federal Election Commission governing similar advertising in federal races.⁶

EC's in Florida are regulated in essentially the same manner as political committees and persons making independent expenditures with regard to registration, reporting, and disclaimer requirements. s. 106.071, F.S. Individuals who make expenditures for electioneering communications exceeding \$100 are required to file a report of their expenditures at the same time, in the same manner, and subject to the same penalties as persons making "independent expenditures" that expressly advocate for or against a candidate or ballot issue. Independent expenditures are reported on the same schedule as periodic campaign finance reporting by political committees (and candidates not accepting public financing).⁷ If an issue advocacy advertisement is published *prior to the end of the qualifying period* it is not considered an EC, and no registration or reporting requirements are triggered for the individual or group running the advertisement.

⁴ Id.

⁵ CS/SB 2346/516; ch. 2004-252, Laws of Fla.

⁶ As required by the Bipartisan Campaign Reform Act of 2002, there are rules governing electioneering communications on television and in radio communications that refer to a clearly identified federal candidate and are distributed to the relevant electorate within 60 days prior to a general election, or 30 days prior to a primary election. The regulations require, among other things, that individuals and other groups not registered with the FEC who make electioneering communications costing more than \$10,000 in the aggregate disclose that activity *within 24 hours* of the distribution of the communication.

⁷ Reporting is required on a quarterly basis, with the frequency of reporting increasing after the qualifying period. Periodic reporting dates during an election year are the 32nd, 18th and 4th day immediately preceding the first primary election, and the 46th, 32nd, 18th and 4th day immediately preceding the general election). s. 106.07(1), F.S.

In 2005, the Division of Elections was asked whether an EC could be coordinated with or made upon consultation with a candidate affected by the communication. In DE 05-04, the Division opined that electioneering communications do not constitute a contribution to or on behalf of a candidate who is referenced or depicted in the electioneering communication, and that candidates may indeed coordinate and consult with groups who conduct EC's.

Thus, under current law, a candidate may solicit funds for a 527 political organization that is not yet registered with the state's Division of Elections and then coordinate with that organization its expenditures with respect to EC's that may be run on the candidate's behalf. Essentially, the 527 organization becomes a supplemental campaign account for a candidate that is not subject to the contribution limits in s. 106.08, F.S. The 527 organization would be subject to periodic filing requirements with the IRS, but in an election year, the IRS permits either quarterly or monthly reporting, with a 12-day pre-election and 30 day post-election report, under either option. Again, no state registration or reporting requirements are triggered until the organization actually conducts an electioneering communication, and even then, the organization has 10 days to register with the Division of Elections.⁸

A recent article in the *Palm Beach Post* highlights how the current state reporting requirement operates in certain circumstances.⁹ A 527 organization¹⁰ began to run ads attacking a particular House candidate in August 2004, just a few weeks before the September 7, 2004 primary. It made its first expenditure on August 25, 2004, and had registered as an ECO on August 10, 2004, with the Division of Elections.¹¹ The ECO used money transferred from a 527 organization¹² that was controlled by the same individuals. The ECO received a total of \$250,000 from the 527 organization between August 8, 2004 and October 8, 2004, and spent all of those funds received during that two-month period. It closed on October 18, 2004, according to reports filed with the Division of Elections.

Proposed Situation –

Under current law, a 527 political organization does not have to register or report *any activity* in Florida until 10 days after it makes an EC. An "expenditure" for an EC is made when the earliest of the following occurs:

- A person executes a contract for applicable goods or services;
- A person makes payment, in whole or in part, for applicable goods or services; or
- The electioneering communication is publicly disseminated.

s. 106.011(4)(b), F.S.

The PCB would require the initial report and registration of an ECO to be filed within 48 hours after an EC is made. The initial report would be made using the Division's electronic filing system and would include all contributions and expenditures made *since the last general election*. Current law requires an ECO to only report its activity from the most recent reporting period.

The PCB also requires, for purposes of this analysis, what is being called "disaggregation" of certain contributions. For example, if an ECO receives any contributions from a 527 political

⁸ s. 106.03(1), F.S.

⁹ palmbeachpost.com; S.V. Date, Jennifer Sorentrude, Feb. 13, 2006.

¹⁰ Floridians for Integrity in Government.

¹¹ Information taken from the Division of Elections web site.

¹² People for Integrity in Government.

organization, the PCB requires the ECO to also include all contributions exceeding \$10,000 made to the donor 527 political organization *since the last general election*.

House Rule 15.3(3) currently requires a member to register and disclose any solicitation activity made on behalf of a political committee, CCE, or organization established under section 527 or 501(c)(4) of the Internal Revenue Code. An affected member must also create a public web site containing all contributions and expenditures. House Rule 15.3(3) provides:

Any member who directly or indirectly solicits, causes to be solicited, or accepts any contributions to an organization described under section 527 or section 501(c)(4) of the Internal Revenue Code, a political committee, or a committee of continuous existence must immediately disclose such activity to, and register with, the Rules & Calendar Council. Upon registration with the council, the member shall promptly create a public website that contains a mission statement and the names of representatives associated with the organization. All contributions received must be disclosed on the website within 10 business days after deposit, together with the name, address, and occupation of the donor. All expenditures made by the organization must be individually disclosed on the website within 10 business days after being made.

The PCB codifies the reporting and disclosure requirements of House Rule 15.3(3), and expands its provisions to include statewide officers and candidates for legislative and statewide office. It also reduces the time period for disclosure of contributions and expenditures from 10 to 5 business days, and clarifies that the disclosure provisions do not apply to a candidate's own campaign account, a person acting on behalf of a political party organized under ch. 103, or to a person associated with a qualified charity organization. The PCB would also require registration and reporting with the Division of Elections, rather than the House Rules and Calendar Council.

The PCB is effective July 1, 2006.

C. SECTION DIRECTORY:

None.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There may be a nominal yet indeterminate cost to the Division of Elections to allow additional campaign-related filings on its electronic filing system in accordance with the proposed requirements in s. 106.0701, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be some additional costs to persons and organizations that must file reports with the Division of Elections.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

PCB ETEL 06-01

ORIGINAL

2006

A bill to be entitled

An act relating to campaign finance; amending s. 106.011, F.S.; amending a definition; providing for registration and additional reporting requirements for organizations making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications; amending s. 106.07, F.S.; providing additional reporting requirements for certain contributions made to persons making expenditures for electioneering communications; creating s. 106.0701, F.S.; providing registration and reporting requirements for legislators, statewide officeholders, and candidates for such offices relating to contributions to organizations exempt under specified provisions of the Internal Revenue Code; providing an exemption; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (1) of section 106.011, Florida Statutes, is amended to read:

106.011 Definitions.--As used in this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

(b) Notwithstanding paragraph (a), the following entities are not considered political committees for purposes of this chapter:

1. Organizations which are certified by the Department of State as committees of continuous existence pursuant to s. 106.04, national political parties, and the state and county

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executive committees of political parties regulated by chapter 103.

2. Corporations regulated by chapter 607 or chapter 617 or other business entities formed for purposes other than to support or oppose issues or candidates, if their political activities are limited to contributions to candidates, political parties, or political committees or expenditures in support of or opposition to an issue from corporate or business funds and if no contributions are received by such corporations or business entities.

3. Organizations whose activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications; however, such organizations shall be required to register and report contributions, including those received from committees of continuous existence, and expenditures in the same manner, at the same time, subject to the same penalties, and with the same filing officer as a political committee supporting or opposing a candidate or issue contained in the electioneering communication, except that the registration and initial report of such organization shall be made within 48 hours of making an electioneering communication and shall include all contributions received and expenditures made since the date of the last general election. If any such organization would be required to register and report with more than one filing officer, the organization shall register and report solely with the Division of Elections.

Section 2. Paragraph (a) of subsection (4) of section 106.07, Florida Statutes, is amended to read:

106.07 Reports; certification and filing.--

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59 (4)(a) Each report required by this section shall contain:

60 1. The full name, address, and occupation, if any of each
61 person who has made one or more contributions to or for such
62 committee or candidate within the reporting period, together with
63 the amount and date of such contributions. For corporations, the
64 report must provide as clear a description as practicable of the
65 principal type of business conducted by the corporation. However,
66 if the contribution is \$100 or less or is from a relative, as
67 defined in s. 112.312, provided that the relationship is
68 reported, the occupation of the contributor or the principal type
69 of business need not be listed.

70 2. The name and address of each political committee from
71 which the reporting committee or the candidate received, or to
72 which the reporting committee or candidate made, any transfer of
73 funds, together with the amounts and dates of all transfers.

74 3. Each loan for campaign purposes to or from any person or
75 political committee within the reporting period, together with
76 the full names, addresses, and occupations, and principal places
77 of business, if any, of the lender and endorsers, if any, and the
78 date and amount of such loans.

79 4. A statement of each contribution, rebate, refund, or
80 other receipt not otherwise listed under subparagraphs 1. through
81 3.

82 5. The total sums of all loans, in-kind contributions, and
83 other receipts by or for such committee or candidate during the
84 reporting period. The reporting forms shall be designed to elicit
85 separate totals for in-kind contributions, loans, and other
86 receipts.

87 6. The full name and address of each person to whom

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88 expenditures have been made by or on behalf of the committee or
89 candidate within the reporting period; the amount, date, and
90 purpose of each such expenditure; and the name and address of,
91 and office sought by, each candidate on whose behalf such
92 expenditure was made. However, expenditures made from the petty
93 cash fund provided by s. 106.12 need not be reported
94 individually.

95 7. The full name and address of each person to whom an
96 expenditure for personal services, salary, or reimbursement for
97 authorized expenses as provided in s. 106.021(3) has been made
98 and which is not otherwise reported, including the amount, date,
99 and purpose of such expenditure. However, expenditures made from
100 the petty cash fund provided for in s. 106.12 need not be
101 reported individually.

102 8. The total amount withdrawn and the total amount spent
103 for petty cash purposes pursuant to this chapter during the
104 reporting period.

105 9. The total sum of expenditures made by such committee or
106 candidate during the reporting period.

107 10. The amount and nature of debts and obligations owed by
108 or to the committee or candidate, which relate to the conduct of
109 any political campaign.

110 11. A copy of each credit card statement which shall be
111 included in the next report following receipt thereof by the
112 candidate or political committee. Receipts for each credit card
113 purchase shall be retained by the treasurer with the records for
114 the campaign account.

115 12. The amount and nature of any separate interest-bearing
116 accounts or certificates of deposit and identification of the

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117 financial institution in which such accounts or certificates of
118 deposit are located.

119 13. The primary purposes of an expenditure made indirectly
120 through a campaign treasurer pursuant to s. 106.021(3) for goods
121 and services such as communications media placement or
122 procurement services, campaign signs, insurance, and other
123 expenditures that include multiple components as part of the
124 expenditure. The primary purpose of an expenditure shall be that
125 purpose, including integral and directly related components, that
126 comprises 80 percent of such expenditure.

127 14. For any contribution made by an entity organized under
128 s. 527 of the Internal Revenue Code to a person making an
129 expenditure for an electioneering communication, the following
130 additional information:

131 1. The name, address and contact person of the s. 527
132 entity.

133 2. The date the s. 527 entity was formed.

134 3. A list of all contributions that exceed \$10,000 received
135 by the s. 527 entity since the date of the last general election,
136 and the name and address of each contributor, including each
137 single contributor that in the aggregate made contributions
138 exceeding \$10,000 during the period.

139 Section 3. Section 106.0701, Florida Statutes, is created
140 to read:

141 106.0701 Solicitation of contributions and disclosure;
142 registration.--

143 (1)(a) A member of the Legislature, statewide officeholder,
144 or candidate for legislative or statewide office who directly or
145 indirectly solicits, causes to be solicited or accepts any

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146 | contributions to an organization that is exempt from taxation
 147 | under s. 527 or s. 501(c) of the Internal Revenue Code which such
 148 | person, in whole or in part, establishes, maintains or controls
 149 | shall immediately disclose such activity to and register with the
 150 | Division of Elections.

151 | (b) Upon registration with the Division of Elections, a
 152 | person subject to the requirements of paragraph (a) shall
 153 | promptly create a public website that contains a mission
 154 | statement and the names of persons associated with the
 155 | organization.

156 | (c) All contributions received shall be disclosed on the
 157 | website within 5 business days after deposit, together with the
 158 | name, address and occupation of the donor. All expenditures by
 159 | the organization shall be individually disclosed on the website
 160 | within 5 business days after being made.

161 | (2) The requirements of subsection (1) do not apply to a
 162 | candidate's own campaign account for state or federal office or
 163 | to an individual listed in subsection (1) who is associated with
 164 | a political party organized under chapter 103, or a qualified
 165 | charity organized under s. 501(c) of the Internal Revenue Code.

166 | Section 4. This act shall take effect on July 1, 2006.